

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

PEDRO GONZALES, et al.,

2:12-CV-1474 JCM (CWH)

Plaintiff(s),

V.

LAS VEGAS METROPOLITAN
POLICE DEPARTMENT, et al.,

Defendant(s).

ORDER

16 Presently before the court is defendant Clark County's motion to dismiss. (Doc. # 12).

17 Plaintiffs have not filed a response in opposition and the deadline date for filing a response has
18 passed.

19 *Pro se* plaintiffs filed the instant lawsuit against the following defendants: Las Vegas
20 Metropolitan Police Department (“LVMPD”); two officers employed by LVMPD; the Social
21 Security Administration (“SSA”); and, Clark County. LVMPD and one its officers answered the
22 complaint. (Doc. # 16).

23 Defendant Clark County filed a motion to dismiss. (Doc. # 12). Plaintiffs filed a motion to
24 extend time to respond to the motion to dismiss. (Doc. # 17). The court granted plaintiffs a thirty-
25 day extension. (Doc. # 18). The thirty-day extension has passed and plaintiffs have not filed a
26 response.

1 “To survive a motion to dismiss, a complaint must contain sufficient factual matter, accepted
2 as true, to ‘state a claim for relief that is plausible on its face.’” *Ashcroft v. Iqbal*, 129 S. Ct. 1937,
3 1949 (2009) (quoting *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). “Where a
4 complaint pleads facts that are ‘merely consistent’ with a defendant’s liability, it ‘stops short of the
5 line between possibility and plausibility of entitlement to relief.’” *Id.* (citing *Bell Atlantic*, 550 U.S.
6 at 557). However, where there are well pled factual allegations, the court should assume their
7 veracity and determine if they give rise to relief. *Id.* at 1950.

Pursuant to Local Rule 7-2(d), an opposing party's failure to file a timely response to any motion constitutes the party's consent to the granting of the motion and is proper grounds for dismissal. *U.S. v. Warren*, 601 F.2d 471, 474 (9th Cir. 1979). However, prior to dismissal, the district court is required to weigh several factors: "(1) the public's interest in expeditious resolution of litigation; (2) the court's need to manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of cases on their merits; and (5) the availability of less drastic sanctions." *Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995) (citing *Henderson v. Duncan*, 779 F.2d 1421, 1423 (9th Cir. 1986)).

16 In light of the plaintiff's failure to respond and weighing the factors identified in *Ghazali*,
17 the court finds dismissal appropriate.

18 || Accordingly,

19 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that defendant Clark County's
20 motion to dismiss (doc. # 12) be, and the same hereby, is GRANTED.

21 IT IS FURTHER ORDERED that defendant Clark County is dismissed from the action
22 without prejudice.

23 DATED July 3, 2013.

Xelius C. Mahan
UNITED STATES DISTRICT JUDGE